

# **EXHIBIT "5"**

**IN THE CIRCUIT COURT OF  
RUSSELL COUNTY, ALABAMA**

**B. GARY DAY,**

**Plaintiff,**

**V.**

**CIVIL ACTION NO.: CV-06-59**

**WALTER EDWARD FRENCH, III;  
CHRISTOPHER B. FRENCH; JOHN  
FLORY; JEROME SHORT,**

## Defendants.

**NOTICE OF FILING OF NOTICE OF REMOVAL**

**TO:**

Honorable Kathy S. Coulter  
Circuit Clerk  
Russell County Courthouse  
P.O. Box 518  
501 14th Street  
Phenix City, AL 36868-0518

Please take notice that the Defendant John Flory has on this date filed its Notice of Removal, a true and correct copy of which is attached hereto as Exhibit "A", in the Office of the Clerk of the United States District Court for the Middle District of Alabama, Northern Division, at Montgomery, Alabama.

Dated this the 20<sup>th</sup> day of March, 2006.

  
ROGER S. MORROW, MOR032



JOEL H. PEARSON, PEA019

Attorneys for Defendant, John Flory

OF COUNSEL:

MORROW, ROMINE & PEARSON, P.C.  
122 South Hull Street  
Post Office Box 4804  
Montgomery, Alabama 36103-4804  
Telephone: (334) 262-7707  
Facsimile: (334) 262-7742

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon the following by placing a copy of same in the United States mail, first class postage prepaid on this the 20<sup>th</sup> day of March, 2006.

Hon. James L. Martin  
P.O. Box 14  
Eufaula, Alabama 36072-0014

Hon. Sydney S. Smith  
1503 Broad Street  
Phenix City, Alabama 36867



Of Counsel